

**§ 947.702 Exemption for coal extraction incidental to the extraction of other minerals.**

Part 702 of this chapter, *Exemption for Coal Extraction Incidental to the Extraction of Other Minerals*, shall apply to any person who conducts coal extraction incidental to the extraction of other minerals for purposes of commercial use or sale.

[54 FR 52123, Dec. 20, 1989]

**§ 947.707 Exemption for coal extraction incidental to government-financed highway or other construction.**

Part 707 of this chapter, *Exemption for Coal Extraction Incidental to Government-Financed Highway or Other Construction*, shall apply to surface coal mining and reclamation operations.

**§ 947.761 Areas designated unsuitable for surface coal mining by act of Congress.**

Part 761 of this chapter, *Areas Designated by Act of Congress*, shall apply to surface coal mining and reclamation operations.

**§ 947.762 Criteria for designating areas as unsuitable for surface coal mining operations.**

Part 762 of this chapter, *Criteria for Designating Areas Unsuitable for Surface Coal Mining Operations*, shall apply to surface coal mining and reclamation operations.

**§ 947.764 Process for designating areas unsuitable for surface coal mining operations.**

(a) Part 764 of this chapter, *State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations*, pertaining to petitioning, initial processing, hearing requirements, decisions, data base and inventory systems, public information, and regulatory responsibilities shall apply to surface coal mining and reclamation operations.

(b) The Secretary shall notify the Washington Department of Natural Resources and the Department of Ecology of any area designated unsuitable or for which such designation has been requested or terminated.

**§ 947.772 Requirements for coal exploration.**

(a) Part 772 of this chapter, *Requirements for Coal Exploration*, shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The Office shall make every effort to act on an exploration application within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSMRE shall notify the applicant that the application is being reviewed, but that more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

[52 FR 13816, Apr. 24, 1987]

**§ 947.773 Requirements for permits and permit processing.**

(a) Part 773 of this chapter, *Requirements for Permits and Permit Processing*, shall apply to any person who applies for a permit for surface coal mining and reclamation operations.

(b) In addition to the requirements of part 773, the following permit application review procedures shall apply:

(1) Any person applying for a permit shall submit five copies of the application to the Office.

(2) The Office shall review an application for administrative completeness and acceptability for further review and shall notify the applicant in writing of the findings. The Office may:

(i) Reject a flagrantly deficient application, notifying the application of the findings:

(ii) Request additional information required for completeness stating specifically what information must be supplied and negotiate the date by which the information must be submitted; or

(iii) Judge the application administratively complete and acceptable for further review.

(3) Should the applicant not submit the information as required by § 947.773(b)(2)(ii) by the specified date, the Office may reject the application. When the applicant submits the required information by the specified date, the Office shall review it and advise the applicant concerning its acceptability.

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(4) When the applicant is judged administratively complete, the applicant shall be advised by the Office to file the public notice required by §773.6 of this chapter.

(5) A representative of the Office shall visit the proposed permit area to determine whether the operation and reclamation plans are consistent with actual site conditions. The applicant will be notified in advance of the time of the visit. At the time of the visit, the applicant shall have the locations of the proposed permit boundaries, top-soil storage areas, sediment control

structures, roads, and other significant features contained in the application marked by flags.

(c) In addition to the information required by subchapter G of this chapter, the Office may require an applicant to submit supplementary information to ensure compliance with applicable Federal laws and regulations other than the Act.

(d) The Secretary shall coordinate, to the extent practicable, his responsibilities under the following Federal laws with the relevant Washington State laws to avoid duplication:

Federal law	Washington law
(1) Clean Water Act, as amended 33 U.S.C. 1251 <i>et seq.</i> .....	Water Pollution Control Act, Chapter 90.48 RCW
(2) Clean Air Act, as amended 42 U.S.C. 7401 <i>et seq.</i> .....	Washington Clean Air Act, Chapter 70.94 RCW.
(3) Resource Conservation and Recovery Act, 42 U.S.C. 3251	Solid Waste Management, Chapter 70.95 RCW: Hazardous Waste Disposal Act, Chapter 70.105 RCW.
(4) National Historic Preservation Act, RCW, 16 U.S.C. 470 <i>et seq.</i>	Indian Graves and Records, Chapter 27.44.
(5) Archeological and Historic Preservation Act, 16 U.S.C. 469 <i>et seq.</i>	Archeological Sites and Resources, Chapter 27.53 RCW, Office of Archeology and Historic Preservation, Chapter 43.51A, RCW.
(6) National Environmental Policy Act 42 U.S.C. 4321 <i>et seq.</i> .....	State Environmental Policy Act, Chapter 43.21C RCW.
(7) Coastal Zone Management Act 16 U.S.C. 1451, 1453-1464	Shoreline Management Act, Chapter 90.58, RCW.
(8) Section 208 of the Clean Water Act, as amended, 33 U.S.C. 1251 <i>et seq.</i>	Water Pollution Control Act, Chapter 90.48 RCW: Washington Forest Practices Act, Chapter 76.09 RCW.
(9) Endangered Species Act, 16 U.S.C. 1531 <i>et seq.</i> .....	Natural Area Preserves Act (Plants), Chapter 79.70, RCW: Department of Game, Chapter 43.17 RCW: Game Commission, Chapter 77.08, RCW.
(10) Fish and Wildlife Coordination Act 16 U.S.C. 661-667 .....	Water Resources Act of 1971, Chapter 90.54 RCW: Minimum Water Flows and Levels, Chapter 90.22 RCW.
(11) Noise Control Act, 42 U.S.C. 4903 .....	Noise Control Act of 1974, Chapter 70.107 RCW.
(12) Bald Eagle Protection Act 16 U.S.C. 668-668(d).	

(e) The Secretary shall coordinate the SMCRA permit with appropriate State and regional or local agencies to the extent possible, to avoid duplication with the following state and regional or local regulations:

(1) Department of Ecology:

- Surface Water Rights Permit, RCW 90.03.250
- Dam Safety Approval, RCW 90.03.350
- Reservoir Permit, RCW 90.03.370
- Approval of Change of Place or Purpose of Use (water) RCW 90.03.380
- Ground Water Permit, RCW 90.44.050
- New Source Construction Approval, RCW 79.94.152
- Burning Permit, RCW 70.94.650
- Flood Control Zone Permit, RCW 86.16.080
- Waste Discharge Permit, RCW 90.48.180
- National Pollution Discharge Elimination System (NPDES) Permit, RCW 90.48
- Approval of Change of Point of Diversion, RCW 90.03.380
- Sewage Facilities Approval, RCW 90.48.110
- Water Quality Certification, RCW 90.48.160

(2) Department of Natural Resources:

- Burning Permit, RCW 77.04.150 & .170
- Dumping Permit, RCW 76.04.242
- Operating Permit for Machinery, RCW 76.04.275
- Cutting Permit, RCW 76.08.030
- Forest Practices, RCW 76.09.060
- Right of Way Clearing, RCW 76.04.310
- Drilling Permit, RCW 78.52.120

(3) Regional Air Pollution Control Agencies:

- New Source Construction Approval (RCW 70.94.152)
- Burning Permit, RCW 70.94.650

(4) Department of Fisheries:

- Hydraulic Permit, RCW 75.20

(5) Department of Game:

- Hydraulic Permit, RCW 75.20.100

(6) Department of Social Health Services:

- Public Sewage, WAC 248.92
- Public Water Supply, WAC 248.54

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(7) Department of Labor and Industries:

Explosive license, RCW 70.74.135  
Blaster's license, WAC 296.52.040  
Purchaser's license, WAC 296.52.220  
Storage Magazine license, WAC 296.52.170

(8) Cities and Counties:

New Source Construction Approval, RCW 70.94.152  
Burning Permit, RCW 79.94.650  
Shoreline Substantial Development Permit, RCW 90.58.140  
Zoning and Building Permits, Local Ordinances

(f) Where applicable, no person shall conduct coal exploration operations which result in the removal of more than 250 tons in one location or surface coal mining and reclamation operations without first obtaining permits required by the State of Washington.

(g) The Secretary shall provide a copy of the decision to grant or deny a permit application to the Washington Department of Natural Resources, the Department of Ecology and to the County Department of Planning, if any, in which the operation is located.

[52 FR 13816, Apr. 24, 1987, as amended at 65 FR 79672, Dec. 19, 2000]

### § 947.774 Revision; renewal; and transfer, assignment, or sale of permit rights.

(a) Part 774 of this chapter, *Revision; Renewal; and Transfer, Assignment, or Sale of Permit Rights*, shall apply to any such actions involving surface coal mining and reclamation operations permits.

(b) Any revision to the approved permit will be subject to review and approval by OSMRE.

(1) Significant revisions shall be processed as if they are new applications in accordance with the public notice and hearing provisions of §§ 773.6, 773.19(b) (1) and (2), and 778.21 and of part 775.

(2) OSMRE shall make every effort to approve or disapprove an application for permit revision within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSMRE shall notify the applicant that the application is being reviewed, but that more time is necessary to complete

such review, setting forth the reasons and the additional time that is needed.

(c) In addition to the requirements of part 774 of this chapter, any person having an interest which is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any Federal, State, or local government agency, may submit written comments on the application to the Office within thirty days of either the publication of the newspaper advertisement required by § 774.17(b)(2) of this chapter or receipt of an administratively complete application, whichever is later.

[52 FR 13817, Apr. 24, 1987, as amended at 65 FR 79672, Dec. 19, 2000]

### § 947.775 Administrative and judicial review of decisions.

Part 775 of this chapter, *Administrative and Judicial Review of Decisions*, shall apply to all decisions on permits.

[52 FR 13817, Apr. 24, 1987]

### § 947.777 General content requirements for permit applications.

Part 777 of this chapter, *General Content Requirements for Permit Applications*, shall apply to any person who applies for a permit to conduct surface coal mining and reclamation operations.

[52 FR 13817, Apr. 24, 1987]

### § 947.778 Permit applications—minimum requirements for legal, financial, compliance, and related information.

Part 778 of this chapter, *Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information*, shall apply to any person who applies for a permit to conduct surface coal mining and reclamation operations.

[52 FR 13817, Apr. 24, 1987]

### § 947.779 Surface mining permit applications—minimum requirements for information on environmental resources.

Part 779 of this chapter, *Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources*, shall apply to any